

## UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America

v.

James Timothy Kelly Jr.

Case No. 5:20-MJ-1936-RN

*Defendant(s)*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 21, 2020 in the county of Harnett in the  
Eastern District of North Carolina, the defendant(s) violated:

*Code Section*

18 U.S.C. § 844 (i)

*Offense Description*

Maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce.

This criminal complaint is based on these facts:

See attached affidavit, incorporated herein by reference.

☒ Continued on the attached sheet.*Chad Edmunds**Complainant's signature*

Chad Edmunds, ATF Special Agent

*Printed name and title*

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 over the telephone.

Date: August 28, 2020*Robert T. Numbers II**Judge's signature*City and state: Raleigh, NC

Robert T. Numbers II, United States Magistrate Judge

*Printed name and title*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

**Probable Cause Affidavit**

I, Chad Edmunds, hereinafter designated as affiant, having been duly sworn according to law, depose and state that:

1. Affiant is a Senior Special Agent/Certified Fire Investigator (SSA/CFI) with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") and have been so employed since October 2007. Affiant is currently assigned to the Raleigh, North Carolina Field Office, Charlotte Field Division. This affiant has received extensive training at the ATF National Academy in the investigation of firearms, arson, explosives offenses and alcohol and tobacco diversion. I have also received advanced training in arson investigations from the National Fire Academy, International Association of Arson Investigators and Oklahoma State University. This affiant is also a member of the ATF National Response Team (NRT), which responds to fire and explosives incidents nationwide.
2. This affiant has participated in multiple arson investigations that have led to successful federal prosecutions. Previously, this affiant was employed as a Lieutenant with the Apex Fire Department in the State of North Carolina for 1 year. Prior to serving as a Lieutenant with the Apex Fire Department, the affiant was a police officer with the Raleigh Police Department in the State of North Carolina for six years
3. As a result of your affiant's training and experience as an ATF Senior Special Agent/Certified Fire Investigator, your affiant is familiar with federal criminal laws, and has participated in the investigations of criminal violations of federal law, including, but not limited to, Title 18 United States Code Sections 844(i).
4. I make this affidavit in support of an application for the issuance of a criminal complaint against James Timothy Kelly Jr. (hereinafter "Kelly") for the following violations:

Title 18 U.S.C. § 844(i) - Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce

Title 18 U.S.C. § 844(n) – a person who conspires to commit an offense under Title 18 U.S.C. § 844.

5. Information contained within this affidavit is based upon information from this Affiant's investigation, personal observations, training and experience, as well as information relayed to this Affiant by other law enforcement officers and or agents. I am not including every fact of the investigation, but only the necessary information needed to obtain

probable cause that Kelly violated Title 18 U.S.C. § 844(i) and Title 18 U.S.C. § 844(n).

**FACTS IN SUPPORT OF PROBABLE CAUSE**

6. On January 21, 2020, a fire that had self-extinguished was discovered by Hyminh Park (hereinafter “Mike”), the owner of Skills Gaming Center (hereinafter “SGC”), located at 14260 NC 210 South, Spring Lake, North Carolina (NC) 28390. The owner contacted Detective D. Hildreth with the Harnett County Sheriff’s Office (HCSO) to advise him of the incident. Detective Hildreth advised Mike to call 911 to report the incident. On the same date, the HCSO and the Harnett County Fire Marshal’s Office (HCFMO) responded to the scene.
7. When investigators arrived, Mike advised them that when he arrived for work, he located “smoke and flame damage” to the front door of his business”. Detective Hildreth stated he observed charring to the front concrete area in front of the front door. Hildreth entered the building and located fire damage inside the business around the front door.
8. This affiant reviewed the photos taken by the HCFMO. The photos indicate discoloration to the concrete in front of the front doors. Charring and soot deposits are also observed to the aluminum framed glass front door and windows. On the interior of the business, investigators discovered sooting and discoloration to the glass and aluminum framed front door and windows. Charring and melting was also noted to the carpet inside the business.
9. Investigators obtained the video surveillance from the business. The video surveillance was reviewed and shows an unknown person, come into view from the left side of the business (as you are looking at the front door). The subject is wearing dark clothing that covers a majority of his body and is also wearing gloves. The person is carrying a 2 gallon red in color gasoline can. The suspect walks up to the front door and starts to pour a liquid on the door area, then makes a trailer away from the door. The subject then reaches down and ignites the liquid, and runs off. The suspect is last seen climbing over the fence leaving the property.
10. Investigators canvassed the area where the subject was observed leaving the property. During the canvass, investigators located a clear plastic glove, which appeared new and out of place. Investigators also located a red two gallon gasoline can. The gasoline can appeared to be the same gasoline can that the suspect possessed in the video surveillance.
11. Investigators also obtained video surveillance from a storage facility located in the area of the SGC. The video surveillance shows a small sports utility vehicle (SUV) approach from the Ray Road/Highway 210 area. When the vehicle approaches the area, the vehicles lights turn off and the vehicle turns on to Capital Drive. A short time after the vehicle enters Capital Drive, it returns and exits down Meadow Street. A few minutes later, the vehicle returns and stops for a short period of time. The vehicle is then observed leaving the area.

12. On February 14, 2020, Detective Hildreth obtained a Google Geo Fence Search Warrant signed by a State Superior Court Judge. The warrant requested "anonymized information" regarding accounts that are associated with devices that were in the area of the SGC in the time in which the fire occurred.
13. Detective Hildreth was able to narrow the results from the search warrant to three devices that could belong to the suspect(s). The GPS and WIFI plots that were provided by Google determined that devices with ID's -61881682, -2074939772, and 268763744 belonging to Justin Powell and a Krystle Ferrell were in the area of SGC at the time of the fire.
14. Detective Hildreth interviewed Krystle Ferrell on March 13, 2020. During the interview, Ferrell was shown a portion of the surveillance video that had been obtained from SGC from the January 21, 2020 incident. Ferrell immediately identified the subject in the video as Joshua Powell.
15. On July 22, 2020, this affiant interviewed Joshua Powell. Powell stated that Kelly approached him about setting the Skills Gaming Center on fire. Powell stated that Kelly offered him \$500 to burn the business. Powell stated that Kelly told him where the business was located and gave him the address. Powell stated that Kelly had set the building on fire in December 2019, but didn't "do it right" and that's why he asked him to do it. Powell stated that Kelly came over to his house the morning after he set the business on fire and paid him cash.
16. Mike from SGC stated that the hardware for their games comes from the State of Georgia, which affects interstate commerce.
17. Based on the foregoing investigation, probable cause exists to believe that the James Timothy Kelly Jr., did violate Federal law including Title 18, United States Code Sections 844(i) and Title 18, United States Code 844(n). I respectfully request that a complaint warrant be issued for Joshua Powell and Justin Powell arrest.

*Chad Edmunds*

Chad Edmunds, SSA/Certified Fire Investigator  
Bureau of Alcohol, Tobacco, Firearms, and Explosives

Pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, the affiant appeared before me via reliable electronic means, was placed under oath, and attested to the contents of this written affidavit.  
Dated: August 28, 2020

*Robert T. Numbers II*

Robert T. Numbers, II  
United States Magistrate Judge